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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,192	06/25/2003	Bradley R. Wolf	633032-002	4246

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EXAMINER

ADAMS, AMANDA S

ART UNIT	PAPER NUMBER
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3731

MAIL DATE	DELIVERY MODE
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06/06/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/606,192	Applicant(s) WOLF ET AL.	
	Examiner Amanda Adams	Art Unit 3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/5/2007 has been entered.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1-8 and 10** are rejected under 35 U.S.C. 103(a) as being unpatentable over Chout (FR 2,747,908) in view of Grafton (US 2003/0139775) and further in view of Adamyan et al (US 6,086,578).

3. Chout discloses the invention substantially as claimed including a suture material attached to a needle, and the suture material being comprised of a bioresorbable material (polyglycolic acid polymer) or gold (see abstract). Chout does not disclose the suture having a braided composition nor does he specifically disclose that the gold and the bioabsorbable material are used in the same piece of suture. However, Grafton teaches a suture material that is braided (par. 21). Braiding together the two materials of

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the suture thread improves the strength of the suture and holds the two materials together during and after implantation. Therefore it would have been obvious to braid the elongated threads together.

4. In addition, it would have been obvious to use both the gold and the bioresorbable material in the same suture, as taught by Adamyan et al. This allows the strength of the gold material to hold allow the suturing to remain in place and perform its necessary function, and the bioresorbable material will degrade once it is no longer needed to hold together the tissue in a suture. Also, the gold acts as a radiopaque substance, so that during and after implantation, the surgeon can see the precise location of the suturing material. Therefore it would have been obvious to braid and use the gold and the bioresorbable material together in the same suture thread.

5. Regarding claims 2-6, 8, and 10, Chout in view of Grafton disclose the invention substantially as claimed above except for failing to disclose particular thread counts, a 50%-50% gold and bioabsorbable thread ratio, and the gauge range for the diameter of the braided suturing material.

6. Specifically regarding claims 2-6, 8, and 10, due to lack of criticality in the specification, the thread counts, gauge, ratios, 22 carat gold alloy, and braid angle disclosed in the claims were shown to solve no particular problem, serve no particular purpose and provide no additional benefit as opposed any other modifications on these limitations. Therefore, it would have been obvious to have a suture gauge in the range of 2-10 gauge, a braid of 3-9 threads, 1-5 gold threads, 1-5 bioabsorbable threads, a 50%-50% ratio of gold to bioabsorbable threads, a gold alloy of at least 22 carats, and a

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braid angle of at least 45 degrees, because these limitations are capable of working just as well as any limitation disclosed in relevant prior art.

7. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chout (FR 2,747,908) in view of Adamyan et al (US 6,086,578), in view of Grafton (US 2003/0139775) and further in view of Nobles et al (US 2004/0092966).

8. Chout in view of Grafton and Adamyan et al teach the invention substantially as claimed above except for failing to teach a bendable straight needle. However, Nobles et al teach a bendable straight needle (paragraph 162). This type of needle would allow the braided structure to be directed at varying angles once the skin has been punctured. Therefore it would have been obvious to have a bendable straight needle because then the suture will be directed to its desired location and trauma to the underlying facial tissue will be minimized.

9. Claims 11-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adamyan et al (US 6,086,578) in view of Grafton (US 2003/0139775).

10. Adamyan et al disclose the method substantially as claimed including providing an elongated suture having a needle disposed on the distal end thereof and passing the needle through the skin such that the elongated suture is disposed in an intradermal tissue beneath the skin (col. 1, lines 64-67), wherein the skin is located in a skin fold area and the elongated sutures are implanted in continuity with the specific skin fold area, wherein tension is applied to the suture after the elongated tissue is disposed in the intradermal tissue (col. 2, lines 13-27). Adamyan et al do not disclose the suture including at least one gold thread that is braided with at least one bioabsorbable thread.

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However, Grafton teaches a similar suture-like material wherein the threads are braided together (par. 21). This provides increased strength of the gold thread and better traction to hold the suture in place. Therefore it would have been obvious to braid the gold and bioabsorbable threads disclosed by Adamyan et al to use in the method disclosed above.

11. Regarding claim 15, a suture that is ultra thin is already old and well-known in the art, and any suturing thread that can be implanted intradermally without being seen from the outside of the patient's skin can be considered to be ultra thin.

12. Regarding claim 16, it is old and well-known in the art that when stitching or suturing, the length of the stitch is shorter than the length of the needle.

Response to Arguments

13. Applicant's arguments filed 3/5/07 have been fully considered but they are not persuasive. The affidavit provides support for why the braiding of the threads that comprise a suture is advantageous over having threads that comprise a suture which are un-braided, however, there is still no support for why the particular braid angle of 45 degrees is advantageous over any other angle of braiding. Support is provided in the rejections for why it would have been obvious to braid gold suture thread with bioresorbable thread, and Grafton teaches threads are braided together to form a suture. Further, in the art of Chesterfield et al (US 5,261,886), it is shown that it is old and well-known in the art of suturing to have a braided suture and that the structural

properties of the suture differ depending on the braid angle, over a range of braid angles.

Conclusion

14. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amanda Adams whose telephone number is (571) 272-

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5577. The examiner can normally be reached on M-F, 8:00am-5:00pm, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ASA

ASA 3/20/07


GLENN K. DAWSON
PRIMARY EXAMINER